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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/532,210	04/22/2005	John Perrier	A-9547	6771

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EXAMINER

LARYEA, LAWRENCE N

ART UNIT	PAPER NUMBER
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3768

MAIL DATE	DELIVERY MODE
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10/18/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/532,210

Applicant(s)

PERRIER, JOHN

Examiner

Lawrence N. Laryea

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 June 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-23, 25-28 and 30-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-23, 25-28 30-33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 April 2005 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 22 APR 2005.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

Examiner acknowledges Applicant's amendment and remarks filed May 28, 2007.

Claims 11-23, 25-28 and 30-32 are now pending. The Examiner acknowledges the amendments to Claims 11,22,23,25 and 25 as well as the cancellation of Claims 70-74 and 91, and the addition of Claims 24 and 29.

Applicant's arguments with respect to the rejection(s) of claim(s) 11-23, 25-28 and 30-32 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 11,22,23 rejected under 35 U.S.C. **102(b)** as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over **Young et al (Patent 6058932)**.

3. **Young et al** teach an ultrasound system including at least one ultrasonic transducer adapted to be placed in contact with a region of the neck of the person or animal, and ultrasonic wave generation means for producing ultrasonic vibrations in said transducer of a frequency suitable for at least limited penetration of soft body tissue of the neck (**See Col. 1, lines 28-31, Col. 2, lines 1-12 and Claim 11**).

4. Claims 12,31 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Young et al** in view of **Castel et al (Patent 5086788)**.

5. **Young et al** teach the claimed invention see rejection supra; however **Young et al** does expressly teach that the system comprises an oscillator and means for switching said ultrasonic wave generation means between first mode in which said at least one transducer generates lower power ultrasonic vibrations and a second mode in which said at least one transducer generates higher power ultrasonic vibrations.

6. **Castel et al** teach an ultrasound system comprises an oscillator and means for switching said ultrasonic wave generation means between first mode in which said at least one transducer generates lower power ultrasonic vibrations and a second mode in which said at least one transducer generates higher power ultrasonic vibrations (**See Col. 1, lines 25-39, Col. 5, lines 7-16 and Col. 2, lines 38-43**).

It would have been obvious to one having ordinary skill in the art at the time invention was made to modify an ultrasonic system of **Young et al** to incorporate similar teachings of **Castel et al** in order to provide required energy to stimulate and treat a patient's tissue as taught by **Castel et al**.

7. Claims 13-21,23-27 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Young et al** in view of **Castel et al** and further view **Erickson et al (5269747)**.

8. **Young et al** and **Castel et al** teach the claimed invention, see rejection supra; however **Young et al** and **Castel et al** do not teach an ultrasonic transducer device wherein a support comprises an arcuate member having a concave side and a convex side, said arcuate member having central attachment means on said convex side for mounting said member to said main body and wherein said transducers are arranged symmetrically on opposite sides of said attachment means. Also, the ultrasonic transducer device comprises two transducers which are flexibly mounted relative to one another, adjustable means to adjust the device to a target area.

9. **Erickson** teaches an ultrasonic transducer device wherein a support comprises an arcuate member having a concave side and a convex side, said arcuate member having central attachment means on said convex side for mounting said member to said main body and wherein said transducers are arranged symmetrically on opposite sides of said attachment means. Also, the ultrasonic transducer device comprises two transducers (**12 and 14**) which are flexibly mounted relative to one another, adjustable means to adjust the device to a target area (**See Col. 2, line 44-52**).

10. Therefore, it would have been obvious to one having ordinary skill in the art at the time invention was made to modify an ultrasound system of **Young et al**, as modified with **Castel et al** to incorporate the similar teachings of **Erickson** wherein an ultrasonic transducer device support comprises an arcuate member having a concave side and a convex side, said arcuate member having central attachment means on said convex side for mounting said member to said main body and wherein said transducers are arranged symmetrically on opposite sides of said attachment means. Also, the

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ultrasonic transducer device comprises two transducers which are flexibly mounted relative to one another, adjustable means to adjust the device to a target in order to make an ultrasonic transducer device portable to be attach to target area.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Huges (Patent 6058932), Van Brunt (Patent 6415791), Thompson et al (Pub. 2003/0069526) and Wiener et al (Patent 6908472) teach related claimed invention.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.


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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lawrence N. Laryea whose telephone number is 571-272-9060. The examiner can normally be reached on 9:30 a.m.-5:30 p.m. EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Casler can be reached on 571-272-4956. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

LNL


Lawrence N. Laryea
Examiner
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U.S. Department of Commerce